

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
AMADO S. PLA ET AL.,

Plaintiffs,

-v-

RENAISSANCE EQUITY HOLDINGS LLC ET AL.,

Defendants.
-----X

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 06/24/2013

12 Civ. 5268 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

The Court has received the attached letter from Plaintiffs dated June 21, 2013, stating that the Parties met and conferred regarding the proposed collective action notice as directed in the Court's June 12, 2013 Order. (Docket No. 72). The Parties have supplied the Court with a jointly submitted proposed collective action notice including an Opt-in Form. Upon reviewing these submissions, which are also attached, it is hereby ORDERED that:

- (i) Plaintiffs are directed to make the following modifications to the submissions:
- a. Add a caption to the Collective Action Notice, modeled after the caption above;
 - b. Replace the names of the named plaintiffs, as appropriate, in light of the Court's ruling on Plaintiffs' motion for reconsideration earlier today;
 - c. Modify the Collective Action Notice and Opt-in Form to indicate that the opt-in period will close ninety (90) days from the date of the Collective Action Notice, rather than sixty (60) days;

- d. Add a prominent notice to the Opt-in Form indicating the last date on which parties may file an Opt-in Form and stating that the Opt-in Forms should be mailed to:


Clerk of Court
U.S. District Court for the Southern District of New York
500 Pearl St.
New York, NY 10007-1316

(ii) Plaintiffs are authorized to disseminate the attached Collective Action Notice and Opt-in Form, as modified, no later than **July 31, 2013**;

(iii) No later than **July 15, 2013**, Defendants are to supply Plaintiffs with a comprehensive list of the names and last-known addresses of all security guards employed at the Flatbush Gardens complex within the three-year (3-year) claim period under the Fair Labor Standards Act.

SO ORDERED.

Dated: June 24, 2013
New York, New York



JESSE M. FURMAN
United States District Judge

THE HARMAN FIRM, PC

ATTORNEYS & COUNSELORS AT LAW

200 WEST 57th STREET, SUITE 900, NEW YORK, NEW YORK 10019

TELEPHONE 212 425 2600 FAX 212 202 3926

WWW.THEHARMANFIRM.COM

June 21, 2013

VIA EMAIL (Furman_NYSDChambers@nysd.uscourts.gov)

Hon. Jesse M. Furman
United States District Court
for the Southern District of New York
40 Centre Street, Room 2202
New York, New York 10007

**Re: *Pla et al. v. Renaissance Equity Holdings et al.*,
12 CV 5268 (JMF)**

Dear Judge Furman:

We represent the Plaintiffs in the above-referenced wage-and-hour matter.

Consistent with Your Honor's June 12, 2013 Order, counsel for the Parties have met and conferred regarding the proposed collective action notice and a proposed order for the Court's consideration.¹ In an abundance of caution, we also enclose a proposed consent or opt-in form in both Microsoft Word and PDF formats.

We are pleased to report that the Parties were able to agree to the content of all three (3) of these documents, which are submitted herewith.

Finally, the Plaintiffs wish to highlight that the current proposed notice is limited to a three-year claims period under the Fair Labor Standards Act. Currently pending before the Court is Plaintiff's Motion for Class Action Certification pursuant to FED. R. CIV. P. 23, regarding the Plaintiff's New York Labor Law claims, which are subject to a six-year claim period.

In the event that the Rule 23 Motion is granted, Plaintiffs respectfully request the right to reserve amending the proposed notice to state that it is directed to individuals who worked at the Flatbush Gardens complex within the relevant six-year period. Defendants have advised Plaintiffs that under those circumstances (that is, if the Rule 23 Motion is granted), they would not object to such a modification.

¹ In accordance with the ECF Rules & Instructions, the Parties are also submitting the proposed order to judgments@nysd.uscourts.gov.

Hon. Jesse M. Furman

June 21, 2013

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We thank the Court for its consideration.

Respectfully submitted,
THE HARMAN FIRM, PC

s/
Peter J. Andrews [PA-3295]

Encls.

cc: Joshua A. Marcus, Esq. (via email, jmarcus@franklingringer.com)
Martin Gringer, Esq. (via email, mgringer@franklingringer.com)
Walker G. Harman, Jr. (via email)

**IMPORTANT NOTICE ABOUT YOUR RIGHT
TO JOIN A LAWSUIT SEEKING TO RECOVER
UNPAID OVERTIME WAGES FROM RENAISSANCE EQUITY HOLDINGS, LLC,
CLIPPER EQUITY, LLC, MY GUARD SECURITY CORP., DAVID BISTRICER,
RAFAEL GARCIA, MARC ANTHONY GARCIA, AND JOHN MURPHY.**

**TO: ALL CURRENT OR FORMER SECURITY EMPLOYEES WHO HAVE
PATROLLED THE PREMISES OF THE FLATBUSH GARDENS
RESIDENTIAL COMPLEX SINCE [THREE YEARS FROM DATE OF
NOTICE]**

**RE: YOUR RIGHT TO JOIN A LAWSUIT SEEKING TO RECOVER UNPAID
OVERTIME COMPENSATION**

DATE: [DATE OF NOTICE]

1. WHY YOU ARE GETTING THIS NOTICE

This Notice is to tell you that there is a lawsuit that you may be eligible to join because you might be “similarly situated” to the named Plaintiffs. This notice is to tell you how your overtime rights under the Fair Labor Standards Act may be affected by this lawsuit. This notice will also tell you how to join the lawsuit if you think you are entitled to back overtime payments and want to participate.

2. DESCRIPTION OF THE LAWSUIT

A lawsuit has been brought by Plaintiffs Amado S. Pla, Kevin Joseph, and Yishmael Levi against Defendants **Renaissance Equity Holdings, LLC, Clipper Equity LLC, My Guard Security Corp., David Bistricer, Rafael Garcia, Marc Anthony Garcia, and John Murphy** in the United States District Court for the Southern District of New York in Manhattan (the case number is 12 CV 5268 (JMF)).

The Plaintiffs worked for, on behalf of, or under the supervision of the Defendants as security employees within the Flatbush Gardens Residential Complex. In their lawsuit, they claim that Defendants did not pay overtime compensation to them or any other security employees when they worked more than 40 hours in a week, and in fact had a policy of refusing to consider paying overtime compensation to such employees for hours worked in excess of 40 hours a week.

Plaintiff's lawyers in this case are:

Walker G. Harman, Jr.
Peter J. Andrews
THE HARMAN FIRM, PC
200 West 57th Street, Suite 900
New York, New York 10019
Telephone: (212) 425-2600
Fax: (212) 202-3926
flsa@theharmanfirm.com

Federal overtime laws require that, when someone works more than 40 hours per week, their employer must pay them one and a half times their regular hourly pay rate for every hour over 40 in a week, unless that employee is properly classified as "exempt" from the overtime provisions of the Act.

The security employees who are the lead Plaintiffs in the lawsuit claim that during their employment with, on behalf of, or under the supervision of the Defendants, they often worked more than 40 hours per week, but were not paid overtime at the rate of one and one-half times the hourly rate for the hours they worked in excess of 40. Plaintiffs are suing the Defendants under federal law for overtime pay. They are also asking for "liquidated damages" under the federal law (double the amount of allegedly unpaid wages) and attorneys' fees.

Defendants very strongly deny any wrongdoing and/or liability to Plaintiffs or to any past or present employee who may allege that they were not paid overtime compensation. No determination has been made as to whether you are owed any overtime wages or not, and the Court is not endorsing the merits of the lawsuit or advising you to participate in the lawsuit. You are under no obligation to respond to this notice.

3. WHO CAN JOIN THE LAWSUIT

The lead Plaintiffs are suing on their own behalf as well as on behalf of other employees that are similar situated. Current and former security employees patrolling the Flatbush Gardens residential complex at any time from [THREE YEARS FROM DATE OF NOTICE] to the present are eligible to join the lawsuit.

This notice is to locate persons who wish to join this case and are eligible to join this case and has no other purpose. Your right to participate in this suit may depend upon a later decision by the federal court that you and the representative Plaintiff are "similarly situated."

4. YOUR RIGHT TO JOIN THE LAWSUIT

If you fit the definition above, that is, if you are a current or former security employee patrolling the Flatbush Gardens residential complex at any time between [THREE YEARS FROM DATE OF NOTICE] to the present, you may have the right to participate in this lawsuit.

5. HOW TO JOIN THIS LAWSUIT

Enclosed is a postcard "Consent Form." If you want to join this lawsuit, and want to share in any money damages that may be won, it is extremely important that you read, sign, and return the Consent Form by [SIXTY DAYS FROM DATE OF NOTICE]. The Consent Form is postage-paid for your convenience and pre-addressed to be sent to:

Clerk of the Court
United States District Court for the
Southern District Court of New York
500 Pearl Street
New York, New York 10007

Should the enclosed Consent form be lost or misplaced or if you have questions about filling out or sending the Consent Form, you may contact the Plaintiff's lawyers:

Walker G. Harman, Jr.
Peter J. Andrews
THE HARMAN FIRM, PC
200 West 57th Street, Suite 900
New York, New York 10019
Telephone: (212) 425-2600
Fax: (212) 202-3926
flsa@theharmanfirm.com

If your signed Plaintiff Consent Form is not postmarked by [SIXTY DAYS FROM DATE OF NOTICE], you may not be able to participate in the lawsuit, meaning that you would not be able to participate in any settlement or to share in a monetary recovery. If you submit a Consent Form, it will then be filed with the Court as a public document.

6. RIGHT TO RETAIN OTHER COUNSEL

If you choose to join this lawsuit, you do not need to hire your own lawyer because The Harman Firm, PC will be working on your behalf. You are also entitled to hire your own lawyer at your own expense. If you do hire your own attorney, they must file an opt-in consent form by [SIXTY DAYS FROM DATE OF NOTICE].

7. COUNSEL FOR DEFENDANTS

There are three corporate Defendants in this lawsuit: (i) Renaissance Equity Holdings, LLC; (ii) Clipper Equity, LLC; and (iii) My Guard Security Corp. In addition, there are four individually named Defendants: (i) David Bistrice; (ii) Rafael Garcia; (iii) Marc Anthony Garcia; and (iv) John Murphy. All seven parties are represented by the same law firm:

Joshua Marcus, Esq.
Martin Gringer, Esq.
FRANKLIN, GRINGER & COHEN, P.C.
666 Old Country Road, Suite 202
Garden City, New York 11530
Telephone: (516) 228-3131

If you decide to join this case, you must not contact the Defendants' lawyers directly yourself.

8. NO RETALIATION IS ALLOWED

It is a violation of federal law for the any of the Defendants or any of their related entities to fire, discipline, or in any manner discriminate or retaliate against you for taking part in this case. If you believe that you have been penalized, discriminated against, or disciplined in any way as a result of your receiving this notification, considering whether to join this lawsuit, or actually joining this lawsuit, you may contact Plaintiff's lawyers or any other lawyers of your choosing.

9. EFFECT OF JOINING THIS LAWSUIT

If you choose to join this lawsuit, you will be bound by the judgment, whether it is favorable or unfavorable. You will also be bound by, and will share in, any settlement that may be reached on behalf of the class. In other words, if you join this lawsuit, it will determine your rights.

If you do choose to join the case, you may be required to appear for depositions, respond to written discovery, and/or testify at trial. You may also be responsible for your proportional share of Plaintiffs' costs associated with this lawsuit, which would be applied to any settlement prior to its allocation to the Class. The attorney for the Class Plaintiffs is being paid on a contingency fee basis, which means if there is no recovery, there will be no attorneys' fee. If there is a recovery, the attorney for the class will receive a part of any settlement obtained or a money judgment entered in favor of all members of the class. If you sign and return the Consent to Become Party Plaintiff Form attached to this Notice, you are agreeing to designate the class representative as your agent, to make decisions on your behalf concerning the litigation, the method and manner of conducting the litigation, the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

The Representative Plaintiffs for all employees of Renaissance Equity Holdings, LLC and My Guard Security Corp. are Amado S. Pla, Kevin Joseph, and Yishmael Levi. The decisions and agreements made and entered into by the Representative Plaintiffs will be binding if you join this lawsuit. The Court, however, has retained jurisdiction to determine the reasonableness of any

contingency agreement entered into by the Representative Plaintiffs with their attorneys, The Harman Firm, PC, and to determine the adequacy of Plaintiffs' counsel.

10. NO LEGAL EFFECT IN NOT JOINING THIS SUIT

If you chose not to join this lawsuit, you will not be affected by any judgment or settlement rendered in this case, whether favorable or unfavorable to the class. You will not be entitled to share in any amounts recovered by the class. You will be free to file your own lawsuit. However, the pendency of this suit will not stop the running of the statute of limitations as to any claim you might have until you opt-in to it. In other words, you may lose some or all of your rights if you do not act now.

11. FURTHER INFORMATION

Further information about this notification of the lawsuit may be obtained from Plaintiff's lawyers at:

Walker G. Harman, Jr.
Peter J. Andrews
THE HARMAN FIRM, PC
200 West 57th Street, Suite 900
New York, New York 10019
Telephone: (212) 425-2600
Fax: (212) 202-3926
flsa@theharmanfirm.com

This notice and its contents have been authorized by the Honorable Jesse M. Furman, United States District Judge for the United States District Court for the Southern District of New York. The Court has taken no position regarding the merits of the Plaintiffs' claims or the Defendants' defenses.

CONSENT TO JOIN

I WANT TO JOIN THE LAWSUIT *Pla et al. v. Renaissance Equity Holdings, LLC et al.*, which is pending in the Federal Court for the Southern District of New York, which includes claims asserted under the Fair Labor Standards Act. I understand that this lawsuit seeks unpaid wages that may be owed to me, and that by joining this lawsuit I will become a plaintiff pursuant to the Fair Labor Standards Act. I agree to be bound by any adjudication in the lawsuit whether it is favorable or unfavorable. I understand that, by filing this form, I am voluntarily becoming a party plaintiff to this action. I understand that unless I inform Plaintiff's Counsel or the Court in writing, I will be represented by Plaintiffs Amado S. Pla, Kevin Joseph, and Yishmael Levi and Plaintiff's Counsel, The Harman Firm, PC, 200 West 57th Street, New York, New York 10019, and Plaintiff's Counsel may make decisions on my behalf concerning the litigation and settlement. I understand that if I wish to have other counsel, I may hire an attorney of my own at my own cost.

Date: _____

Signature

Print Name

Phone Number

Mailing Address

Email Address